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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92047433
Party	Defendant Jay-Y Enterprise Co., Inc.
Correspondence Address	KENNETH L WILTON SEYFARTH SHAW LLP 2029 CENTURY PARK E STE 3500 LOS ANGELES, CA 90067-3021 UNITED STATES kwilton@seyfarth.com
Submission	Testimony For Defendant
Filer's Name	Kenneth L. Wilton
Filer's e-mail	kwilton@seyfarth.com, kelko@seyfarth.com
Signature	/Kenneth L. Wilton/
Date	08/15/2011
Attachments	Notice of Filing of Trial Testimony of Michael Ou.pdf (4 pages)(250252 bytes) Depo of Michael Ou 1-1 - 2011-03-24.pdf (50 pages)(3711746 bytes) Depo of Michael Ou 1-2 - 2011-03-24.pdf (49 pages)(3763135 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

GADO S.A.R.L.,	Cancellation No. 92047433
Petitioner,	
v.	
JAY-Y ENTERPRISE CO., INC.,	
Respondent.	

RESPONDENT'S NOTICE OF FILING OF TRIAL TESTIMONY

OF MICHAEL OU PURSUANT TO TRADEMARK RULE 2.125

PLEASE TAKE NOTICE that pursuant to Rule 2.125 of the Trademark Rules of

Practice, Respondent Jay-Y Enterprise Co., Inc. hereby files the trial testimony of Michael Ou

taken on March 24, 2011. The same exhibits were used in the depositions of Teresa Chen and

Ward Chen. Accordingly, and for the sake of efficiency, only one set of deposition exhibits (a

confidential and redacted set) is being filed. As the deposition exhibits are voluminous, they are

being filed with the Board by Federal Express according to the Board's practices.

Pursuant to the attached stipulation (Docket No. 54), as approved by the Board (Docket

No. 55), the parties have waived all certification and sealing requirements under Trademark Rule

2.123(f).

Respectfully submitted,

SEYFARTH SHAW LLP

Dated: August 15, 2011   By: */s/ Kenneth L. Wilton*

Kenneth L. Wilton
Jill A. Jacobs
Attorneys for Respondent
JAY-Y ENTERPRISE CO., INC.

2029 Century Park East, Suite 3500
Los Angeles, CA 90067-3021
Telephone: (310) 277-7200
Facsimile: (310) 201-5219

GADO S.A.R.L.,	
Petitioner,	Cancellation No. 92047433
v.	
JAY-Y ENTERPRISE CO., INC.,	
Respondent.	
AND RELATED COUNTERCLAIM.	

STIPULATION REGARDING FILING OF TRANSCRIPTS OF TESTIMONY DEPOSITIONS AND EXHIBITS THERETO
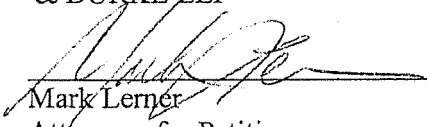
The parties hereto hereby agree and stipulate, pursuant to Trademark Rule 2.123(f), that they jointly waive the certification, sealing and exhibit filing requirements of any testimony deposition transcripts in this proceeding as set forth in Rule 2.123(f).

Pursuant to this stipulation, the parties agree that all deposition transcripts filed to date are not objectionable under Rules 2.123(f) and 2.125(c). As to future deposition transcripts to be filed, the party introducing testimony shall attend to the filing of the transcripts for all testimonial depositions pursuant to the requirements of Rules 2.123 and 2.125, with the exception that the certification, sealing, and exhibit filing requirements under Rule 2.123(f) are waived. The parties further stipulate that the correction of typographical errors contemplated by Rule 2.125(b) shall be indicated on an errata sheet included with each transcript.

In addition, as required and considered appropriate under the applicable Protective Order, the Parties will designate any confidential information found in deposition transcripts or exhibits and file un-redacted Confidential versions, as well as redacted non-Confidential versions, of the transcript and those exhibits, under separate cover, with the Board.

Dated: April 5, 2011

SATTERLEE STEPHENS BURKE
& BURKE LLP

_____
Mark Lerner
Attorneys for Petitioner
230 Park Avenue
New York, NY 10169

SEYFARTH SHAW LLP

_____
Kenneth L. Wilton
Attorneys for Respondent
2029 Century Park East, Suite 3500
Los Angeles, CA 90067-3021

CERTIFICATE OF SERVICE

I hereby certify that on August 15, 2011, I served the foregoing Respondent's Notice of

Filing of Trial Testimony of Michael Ou Pursuant to Trademark Rule 2.125 on the Petitioner by

depositing a true copy thereof in a sealed envelope, postage prepaid, in First Class U.S. mail

addressed to Petitioner's counsel as follows:

> Mark Lerner, Esq.
> Robert Carrillo, Esq.
> Satterlee Stephens Burke & Burke LLP
> 230 Park Avenue
> New York, NY 10169

<div style="text-align:center">

/s/ Eleanor Elko
Eleanor Elko

</div>

1   IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

2   BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

3

4 GADO S.A.R.L.,

5   )

      Petitioner,   )

6   ) Cancellation No.

   vs.   ) 92047433

7   ) Pages 1 - 100

 JAY-Y ENTERPRISE CO., INC.,   )

8   )

      Respondent.   )

9 _____)

)

10 AND RELATED COUNTERCLAIM   )

 _____)

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14

15   EXAMINATION OF MICHAEL OU

16   LOS ANGELES, CALIFORNIA

17   THURSDAY, MARCH 24, 2011

18

19

20

21

22 REPORTED BY:

 LESLIE L. WHITE

23 CSR NO. 4148

 JOB NO.: 37417

24

25

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1

2

3              THURSDAY, MARCH 24, 2011

4                    9:36 a.m.

5

6

7          Examination of MICHAEL OU, held at

8    333 South Hope Street, Suite 3900, Los

9    Angeles, California, before Leslie L. White,

10   CSR No. 4148.

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1   A P P E A R A N C E S:

2

3   SEYFARTH SHAW LLP

4   Attorneys for Respondent and

5   Counterclaimant

6   2029 Century Park East

7   Suite 3500

8   Los Angeles, California 90067

9   BY: KENNETH L. WILTON, ESQ.

10

11   SATTERLEE STEPHENS BURKE & BURKE LLP

12   Attorneys for Petitioner and Counterclaim

13   Defendant

14   230 Park Avenue

15   New York, New York 10169

16   BY: MARK LERNER, ESQ.

17

18

19

20

21   ALSO PRESENT:

22   TERESA CHEN

23   WARD CHEN

24

25

1   I N D E X

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7

8

                    E X H I B I T S

9

                    (NONE OFFERED)

10

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12

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14

15   QUESTIONS WITNESS INSTRUCTED NOT TO ANSWER

                    (NONE)

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19

                INFORMATION REQUESTED

20   (NONE)

21

22

23

24

25

1   LOS ANGELES, CALIFORNIA; THURSDAY, MARCH 24, 2011

2   9:54 a.m.

3

4   MICHAEL OU,

5   the witness herein, having been

6   first duly sworn, was examined

7   and testified as follows:

8

9   EXAMINATION

10   BY MR. WILTON:

11   Q   Good morning, Mr. Ou.

12   A   Good morning.

13   Q   My name is Ken Wilton, and I represent

14   Jay-Y Enterprise Company in this proceeding. On the

15   other side is Mr. Lerner, who represents Gado

16   S.R.L., and you are here for your deposition.

17   And let's start with can you please state

18   and spell your name for the record.

19   A   Michael -- my first name is Michael. Last

20   name is Ou. Just two letters, O-u.

21   Q   Have you ever been deposed before?

22   A   No.

23   Q   Let's spend a few minutes, although before

24   we started you were chatting with the court reporter

25   about it, but I'll give you some idea what is going

1 to happen and some of the ground rules that we need

2 to follow because of the nature of this proceeding.

3   What will happen -- and I discussed this

4 just briefly when Mr. Lerner was out of the room --

5 is I am going to ask you questions that are related

6 to your work, and when I'm finished Mr. Lerner will

7 ask some questions, and there may be a few back and

8 forth, I'll ask a few, he'll ask a few, and then we

9 will be done.

10   Because this is a deposition, and it is

11 being recorded by the court reporter, sitting to my

12 left and your right, there are some rules that we

13 need to follow. She will be transcribing everything

14 we say in this room today, and what she will be

15 doing is at the end of the day, in a couple of weeks

16 we'll get a booklet, and it will be set forth my

17 questions and your answers, and my questions and

18 your answers, same thing with Mr. Lerner.

19   As a result of that we have to make sure

20 we don't speak over each other because she can't

21 transcribe two people speaking at the same time.

22 That becomes chaos, she gets annoyed, and it doesn't

23 read real well. So if you can wait until I finish

24 my questions, and I'll wait until you finish your

25 answers, that should work out real well.

1   Is that okay?

2   A   Okay.

3   Q   Another aspect of this proceeding is that

4 she can only take down verbal responses. So if I

5 ask a question, she can't take down nods of the

6 head, "uh-huh," "un-huh," that doesn't come out real

7 well. So yes or no, or whatever the answer is, if

8 you can say that verbally, that will help us.

9   A   Okay.

10   Q   Is there any reason why we can't go

11 forward with your deposition today?

12   A   No.

13   Q   Where are you employed?

14   A   I'm a self-employee. I'm the computer

15 consultant.

16   Q   And you have your own business?

17   A   Yes.

18   Q   Actually I'll bring up something, although

19 it hasn't happened yet. At some point during the

20 course of the proceeding I am bound to ask a

21 question that Mr. Lerner will raise an objection to,

22 and vice versa, and what will happen is I'll ask a

23 question, he'll object, and his objection is really

24 just for the court when it is decided, it's a

25 tribunal, but you can still answer the question.

1   A   Yes.

2   Q   I may end up rephrasing my question, but

3 that can happen, and you don't have to worry about

4 his objections or my objections, so much as the

5 questions that we're asking, so sorry about that.

6   How long have you been self-employed?

7   A   Since 1990. So 21 years.

8   Q   And you said you were a computer

9 consultant?

10   A   Yes.

11   Q   Do you have a company that you work

12 with -- let me rephrase that. Do you have your own

13 company?

14   A   Yes.

15   Q   What is the name of that?

16   A   Walnut Technology Corporation.

17   Q   As a computer consultant what do you do?

18   A   I install the computer system, hardware

19 and software, for my customer, provide training and

20 support.

21   Q   And could you describe for me your typical

22 customer.

23   A   Wholesale distribution business.

24   Q   Are there typical types of hardware that

25 you install?

1   A   No, just regular Window system.

2   Q   So personal computers?

3   A   Yes, personal computer.

4   Q   And from the software perspective is there

5   a typical types of software that you install?

6   A   Yes, I only support two major software.

7   One is SBT, the other one is Accountmate.

8   Q   And what is SBT?

9   A   It is the accounting system, they can use

10   for like order entry, invoicing, inventory control,

11   purchasing and sales analysis.

12   Q   And what is Accountmate?

13   A   It is the same thing, just two different

14   software.

15   Q   Do you also install business software like

16   Word, Excel?

17   A   Yes, when I provide the computer, sometime

18   I install the Microsoft Office.

19   Q   Have you ever heard of a company called

20   Jay-Y Enterprise Co.?

21   A   Yes.

22   Q   When did you first hear of that company?

23   A   1992.

24   Q   Did they contact you, or did you contact

25   them?

1   MR. LERNER: Objection.

2   BY MR. WILTON:

3   Q   Did you ever do any work for Jay-Y

4   Enterprise?

5   A   Yes.

6   Q   When did you first do work for them?

7   A   1993.

8   Q   And how did you come to do work for Jay-Y?

9   A   By referral.

10   Q   Did Jay-Y contact you, or did you contact

11   Jay-Y?

12   A   I contact Jay-Y.

13   Q   And who did you contact?

14   A   Teresa.

15   Q   Would that be Teresa Chen?

16   A   Yes.

17   Q   Did you offer your services to Jay-Y

18   during that -- first of all, was it a conversation

19   with Teresa Chen?

20   A   Yes.

21   Q   Did you offer your company's services to

22   Jay-Y?

23   A   Yes.

24   Q   What did you offer to do?

25   A   Install the software for them.

1   Q   Did they already have hardware in place?

2   A   I don't remember, yes.

3   Q   And what software did you install for

4 Jay-Y -- did you do that work in 1993?

5   A   Yes.

6   Q   And what software did you install in 1993

7 for Jay-Y?

8   A   SBT accounting system.

9   Q   Was there a specific version of SBT that

10 you installed at that time?

11   A   Yes, in 1993 I installed Version 6, but I

12 upgrade to Version 10 in 1999.

13   Q   Were there intermediate Versions 7, 8 and

14 9?

15   A   No, from 6 to 10.

16   Q   After 1999 did you install any newer

17 versions of SBT at Jay-Y?

18   A   No.

19   Q   Is Jay-Y still using the SBT software, to

20 your knowledge?

21   A   No. They are using MAS, M-A-S, 90

22 installed by other consultant.

23   Q   Is MAS 90 also an accounting software?

24   A   Yes.

25   Q   Do you know when that occurred when they

1   changed from SBT Version 10 to MAS 90?

2   A   2007.

3   Q   Do you know what happened to the prior

4   records from the SBT Version 10 system when they

5   changed to MAS 90?

6   A   It is still in the server.

7   MR. LERNER: Objection.

8   THE WITNESS: In the server.

9   BY MR. WILTON:

10   Q   How do you know that?

11   A   Because I was asked to extract the data,

12   so I know it was in the server.

13   Q   When you say you were asked to check the

14   data, what are you referring to?

15   A   Export the data to Excel format.

16   Q   Did Jay-Y ask you at some point to export

17   SBT data to Excel?

18   A   Yes, because SBT has limited function.

19   They don't have function to export data.

20   Q   When did that occur?

21   A   2009.

22   Q   Going back to the SBT software itself, I

23   know my notes are not really complete, but you said

24   it could be used for order entry; is that right?

25   A   Yes.

1   Q   It can be used for inventory control?

2   A   Yes.

3   Q   Can it be used to generate invoices?

4   A   Yes.

5   Q   Can it be used to track purchase orders?

6   A   Yes.

7   Q   Can it be used to create profit & loss

8   statements for a company?

9   A   Yes, but Jay-Y was not using that.

10   Q   What functions did Jay-Y use?

11   A   Order entry, invoice, purchase order,

12   inventory control.

13   Q   Do you know whether the software could be

14   used to track payments by customers?

15   A   Yes, that's accounts receivable.

16   Q   Do you know if Jay-Y used it for that

17   purpose?

18   A   Yes.

19   Q   Can the software also be used for accounts

20   payable tracking?

21   A   Yes.

22   Q   Do you know whether Jay-Y used it for that

23   purpose?

24   A   Yes.

25   Q   Did Jay-Y use it for that purpose?

1   A   Yes.

2   Q   Did you train someone at Jay-Y to perform

3   these various functions?

4   A   Yes, the Sales Department and Accounting

5   Department.

6   Q   And did you provide that training in 1993

7   when you installed the software?

8   A   Yes.

9   Q   Did you provide additional training over

10   the years?

11   A   Only brief training for Version 10 in

12   1999.

13   Q   With regard to order entry, what kind of

14   orders are you referring to?

15   A   Sales order.

16   Q   Would that be the type of order when a

17   customer orders product from Jay-Y or when Jay-Y

18   orders product from a customer?

19   A   It is Jay-Y's customer order product from

20   Jay-Y.

21   Q   And do you know what steps the software

22   required when a customer ordered product from Jay-Y?

23   A   Yes.

24   Q   Could you describe those for me.

25   A   They enter the customer number first, then

1   PO number, payment term, and after that just the

2   item, the product, quantity, price. That's typical

3   order entry.

4   Q   And was the SBT software in 1993 through

5   1999, was that Windows based or something else?

6   A   1993 is DOS based, DOS application, and

7   1999 Version 10 is Window version.

8   Q   I'm going to ask you some questions about

9   how data is put into the system, and for now

10   let's -- I'd like to keep your answers confined to

11   the DOS application because the period we're looking

12   at is between 1993 and 1998.

13   A   Okay.

14   Q   You said that the first thing that a

15   salesperson would do is enter the customer number.

16   A   Yes.

17   Q   What is a customer number?

18   A   Every customer has their own unique ID in

19   the customer file, in the SBT customer file.

20   Q   And during that period of time do you know

21   what Jay-Y was using as customer numbers? Were they

22   letters? Numbers?

23   A   Letter and number.

24   Q   And is that something that the user can

25   decide?

1   A   Yes.

2   Q   Was there a screen or something that said

3   "Sales Order" at the top or "Sales Entry"?

4   A   Yes.

5   Q   What did it say?

6   A   It say, "Create a sales order."

7   Q   Would the software then prompt the user to

8   type in the customer number?

9   A   Customer number.

10   Q   And after the user typed in the customer

11 number and hit "Enter" what would happen?

12   A   It would select a customer, put some

13 default information for this order.

14   Q   What kind of default information?

15   A   Like an address, salesperson, payment

16 term.

17   Q   So the address, the identity of the

18 salesperson and the payment would be somehow keyed

19 to the customer number?

20   A   Yes. They are in the customer file, so

21 when they select this customer in the order, those

22 information will transfer to the order first.

23   Q   You referred to a customer file. Is that

24 an actual file on the system?

25   A   Yes.

1   Q   And does that file have the names of all

2 of Jay-Y's customers in it?

3   A   Yes.

4   Q   And are those names keyed to a customer

5 number?

6   A   Yes.

7   Q   You mean if you type in the customer

8 number it will pull up a salesperson?

9   A   Yes.

10   Q   Is that information also in the customer

11 file?

12   A   Yes.

13   Q   You also mentioned if you type in a

14 customer number it will pull up a payment term.

15   A   Yes.

16   Q   Is that information also in the customer

17 file?

18   A   Yes.

19   Q   So the salesperson types in the customer

20 number, hits "Enter." Does the screen then just say

21 here is the name of the customer and the salesperson

22 and the payment and then have another prompt, or

23 what happens next?

24   A   There are other information, like customer

25 PO number, shipping method.

1   Q   So does the screen then have a prompt that

2   says "Customer Purchase Order Number"?

3   A   Yes.

4   Q   And whose number is that? Is that a Jay-Y

5   number, or is that the customers number?

6   A   Customer.

7   Q   So if the salesperson at Jay-Y types in

8   the purchase order number and hits "Enter," does any

9   kind of information come up?

10   A   No.

11   Q   Is that because the number is whatever the

12   customer told the salesperson the number is?

13   A   Yes.

14   Q   And after the customer purchase order

15   number prompt comes up, what prompt came up next?

16   MR. LERNER: Objection.

17   BY MR. WILTON:

18   Q   Or did a prompt come up after purchase

19   order?

20   A   Just ask if you want to continue for item

21   entry.

22   Q   And that's a "Yes/No" prompt?

23   A   Yes.

24   Q   And if the salesperson says "Yes," and

25   hits "Enter" what happens next on the --

1   A   It would show another screen for user to

2   enter item number, the inventory, the product item

3   number.

4   Q   Let me -- actually, whose item number

5   would be typed into that screen? Is that an item

6   number from the customer or an item number from

7   Jay-Y?

8   A   Jay-Y.

9   Q   And after the salesperson types in the

10 item number and hits "Enter" what happens next?

11   A   Will come up a description, the quantity

12 and price, unit price.

13   Q   When you say it would come up with a

14 description, quantity and price, would that appear

15 on the screen?

16   A   Yes.

17   Q   And from the description perspective,

18 whose description was that?

19   A   Jay-Y's.

20   Q   Was that Jay-Y's description of the item

21 number that was typed in?

22   A   Yes.

23   Q   And you said it also would show quantity.

24 What quantity would it show?

25   A   The quantity, the customer ordered. So it

1 show up like quantity 1, and they can override to

2 like 10, 20.

3   Q   So the salesperson would type in "Item

4 Number," hit "Enter," the screen would display a

5 description of the item and a quantity and a price,

6 and would the salesperson then be able to go back to

7 the quantity and change it?

8   A   Yes.

9   Q   How did that work in a DOS system?

10   A   Just one by one.

11   Q   Okay.

12   A   After you enter "Item Number" then

13 prompt -- the cursor goes to "Description," and then

14 the "Quantity," then the "Price," and then asks

15 "Yes" or "No."

16   Q   Is it possible to go back and forth

17 between those prompts -- was it possible to go back

18 and forth between those prompts?

19   A   Yes.

20   Q   Was this sort of a green-screen type of

21 idea?

22   A   Yes.

23   Q   So the salesperson could type in the

24 quantity and the price and then would get a

25 prompt -- what would the prompt say, if you recall?

1 A "Save" or "Cancel."

2 Q And if the salesperson typed in "Save" and

3 hit "Enter" what would happen next?

4 A It would ask for next item.

5 Q And then would the salesperson type in --

6 if there was another item being ordered, a different

7 item number?

8 A Yes.

9 Q And then would the salesperson have the

10 choice of changing quantity and price?

11 A Yes.

12 Q And would they then get a prompt that says

13 "Save" or "Cancel"?

14 A Yes.

15 Q And this process would repeat itself for

16 every item being ordered; is that right?

17 A Yes.

18 Q When the salesperson was done, let's

19 assume that the salesperson has entered three, four,

20 five items, you know, gets the prompt that says,

21 "Next Item," but there is nothing else to enter,

22 what would the salesperson do?

23 A Well, you hit the "Enter" key for the

24 blank item number, the system will ask you if you

25 want to save the order or cancel.

1   Q   If the salesperson says "Cancel" is the

2   order then erased from the system?

3   A   Yes.

4   Q   If the salesperson says "Save" what

5   happens to the order?

6   A   The order would be saved and ready to

7   ship.

8   Q   At that point in time was it possible to

9   go back into the SBT system and change the order?

10   A   Yes, before ship, the merchandise user can

11   change the order.

12   Q   And how would the user do that?

13   A   There is another function, "Change Sales

14   Order."

15   Q   Sounds rather user friendly. And if a

16   salesperson needed to change the order, how would

17   they identify the order?

18   A   Order number. After you save the new

19   order, system provided new sales order number. So

20   in the future the user need to change the sales

21   order. They use this sales order number to retrieve

22   the record and change it.

23   Q   Is the sales order number the same as the

24   invoice number when an invoice is generated?

25   A   No.

1   Q   So after an order is saved, you said it is

2   ready to ship. What did you mean by that?

3   A   Usually the order goes to Accounting

4   Department or warehouse. Accounting Department will

5   check the credit or balance, customer balance. If

6   the credit is okay, the warehouse will pick the

7   merchandise, pack and ship.

8   Q   So does the accounting person have access

9   to the sales information?

10   A   Yes.

11   Q   Can they change the sales information?

12   A   Yes.

13   Q   Can they change all of it or just a

14 portion of it?

15   A   Before ship they can change all the

16 information.

17   Q   And then you said that the warehouse then

18 picks the merchandise, packs it and ships it?

19   A   Yes.

20   Q   Does the warehouse -- this is the period

21 still from 1993 to 1999 -- did the warehouse at

22 Jay-Y have access to the SBT software?

23   A   Yes.

24   Q   And with regard to the sales order we're

25 talking about what information, if any, would the

1 warehouse put into the system?

2   A   The only function warehouse access is

3 "Enter Shipment." They don't change the sales

4 order. They don't create sales order. They only do

5 it when they need to ship the merchandise. After

6 they ship the merchandise, the system generate

7 invoice.

8   Q   So you said the warehouse doesn't create

9 or change the sales order?

10   A   No.

11   Q   Was that a different setting for the user?

12   A   Yes, there is the function called "Enter

13 Shipment."

14   Q   So somebody in the warehouse would have

15 access to the software; is that right?

16   A   Yes.

17   Q   And they would -- they had access to the

18 "Enter Shipment" function?

19   A   Yes.

20   Q   And what did the "Enter Shipment" function

21 allow them to do with regard to a sales order?

22   A   First they enter the sales order number,

23 then they decide the quantity to ship, then they add

24 the shipping charge.

25   Q   When you say they decide the quantity to

1   ship, what are you referring to?

2   A   Because sometimes customer order 20 dozen,

3   but in stock they only have 18, so the warehouse has

4   to change the quantity to 18 to match the real

5   inventory.

6   Q   And backing up, the salesperson, using

7   your example, will have typed in 20 as the quantity;

8   right?

9   A   Yes.

10   Q   Because the customer ordered 20; correct?

11   A   Yes.

12   Q   And then the warehouse will say: We only

13   have 18, so the warehouse had the ability to change

14   the sales order from 20 to 18?

15   A   No.

16   Q   Was this a different part of the system

17   they were working in?

18   A   Yes. The warehouse only change the

19   quantity being "Enter Shipment" program, not the

20   changing sales order.

21   Q   So if the warehouse changed the quantity

22   and then added a shipping charge, what would happen

23   next in the SBT system?

24   A   The system will ask if you want to save

25   this shipment, and if "yes," system will generate

1   invoice, the billing information for this order.

2   Q   When you say the system will generate the

3   invoice, does it print out the invoice? Does it

4   just create it within the system? What happened to

5   it?

6   A   It will print out the invoice.

7   Q   And is the information for the invoice

8   stored someplace in the SBT system?

9   A   Yes.

10   Q   Was there a name of a file that it was

11   stored in?

12   A   Yes.

13   Q   What was the name of the file?

14   A   AR -- actually, there are five different

15   files for one invoice. So the file name would be

16   like AR MAST, AR TRAN, AR ADDR, AR COMM and AR CUST.

17   Q   And these are file names?

18   A   Yes.

19   Q   Are they uniquely identified in some

20   fashion for each invoice?

21   A   Yes, the invoice number.

22   Q   So the actual file name would be something

23   like AR MAST 12345?

24   A   No, the file name -- okay. The file can

25   include the invoice. So like there are many record

1   in this file AR MAST, and one of the information is

2   invoice number, customer number, invoice date.

3   It is not like Word or Excel, you create a

4   file for different file. But for the database it is

5   one file. They include many records.

6   Q   You just mentioned something that now

7   occurred to me. How did SBT store information? Did

8   it store it as a database? Did it store it as

9   something else?

10   A   It's a database. SBT is relational

11 database.

12   Q   So were each of these five files that you

13 have listed, each of these a separate database?

14   A   Yes.

15   Q   Did each of them contain records that

16 would point to other records in the databases?

17   A   Yes.

18   Q   So if one looked at the AR MAST database,

19 from what you described each record would include an

20 invoice number, a customer number and an invoice

21 date?

22   A   Yes.

23   Q   And how would that record relate to the

24 records in the AR TRAN file?

25   A   Invoice number.

1   Q   So if I just looked at the AR TRAN

2 database, I could use an invoice number to pull up a

3 record; is that right?

4   A   Yes.

5   Q   That would be included in the records in

6 the AR TRAN file?

7   A   Is the product customer ordered and

8 shipped. Like an item number, quantity, invoice

9 date, price.

10   Q   So each record in the AR TRAN database

11 would include the -- include an item number, the

12 quantity, invoice date and price?

13   A   Yes.

14   Q   So would it be possible then to have

15 multiple records in the AR TRAN file all referenced

16 to the same invoice number?

17   A   Yes. Depends on how many items in the

18 invoice. Only one record in AR MAST. It's like a

19 header. But for the AR TRAN is the detail. So

20 there are multiple records in the AR TRAN.

21   Q   And what kind of information was contained

22 in the AR ADDR database?

23   A   Ship To address.

24   Q   How were the records in the AR ADDR

25 database related to the records in the AR MAST

1 database?

2   A   Invoice number.

3   Q   So if I had an invoice number, I could use

4 that to find the Ship To address in the AR ADDR

5 database?

6   A   Yes.

7   Q   And what information was contained in the

8 AR COMM --

9   A   Comment.

10   Q   Comment?

11   A   Yeah, invoice comment.

12   Q   And the information in that database, how

13 is that related to the information in the AR MAST

14 database?

15   A   Invoice number.

16   Q   So similar to some of these others, if I

17 had an invoice number I could find a record in the

18 AR COMM database that had comments for that

19 particular invoice?

20   A   Yes.

21   Q   And finally you mentioned an AR CUST file.

22 What was contained in that file?

23   A   Actually, AR CUST is the customer file.

24 They use the customer number to link to the AR MAST.

25 It is billing address.

1   Q   So if I have a record in the AR MAST file,

2 that record will include the invoice number, the

3 customer number and the invoice date; is that right?

4   A   Yes.

5   Q   Using the invoice number, I can pull up

6 information from the AR TRAN file, the AR ADDR file

7 and the AR COMM file?

8   A   Yes.

9   Q   Let me try it this way. If I wanted to

10 find out all of the information that would be on an

11 invoice, would I start with information in the AR

12 MAST file?

13   A   Yes.

14   Q   And using that information -- the records

15 in that database include invoice number, customer

16 number and invoice date; is that right?

17   A   Yes.

18   Q   Using the invoice number, I can now go to

19 the AR TRAN, AR ADDR, and AR COMM databases and pull

20 up the detail information, the Ship To address, and

21 the comments for that invoice; is that right?

22   A   Yes.

23   Q   And starting once again at the AR MAST

24 file, I can use the customer number to find data in

25 the AR CUST file which will tell me the billing

1   address for the customer?

2   A   Yes.

3   Q   Just so we don't drive the court reporter

4   nuts, can we agree that we will refer to the AR MAST

5   file as the Header file?

6   A   Yes.

7   Q   And can we agree that we will refer to the

8   AR TRAN file as the Detail file?

9   A   Yes.

10   Q   And can we agree that the AR ADDR file

11   will be referred to as the Ship To Address file?

12   A   Yes.

13   Q   And can we agree that the AR COMM file can

14   be referred to as the Comments file?

15   A   Yes.

16   Q   And can we agree that the AR CUST file can

17   be referred to as the customer -- actually, the

18   Billing Address file?

19   A   Customer file.

20   Q   Customer file. So AR CUST we'll refer to

21   as the Customer file?

22   A   Yes.

23   Q   Because it is a relational database, was

24   it possible, using the SBT system, to look up

25   information starting at a different file than the

1   Header file? Let me rephrase the question.

2   If I wanted, for example, to find all of

3   the invoices related to a specific customer, was it

4   possible to start at the Customer file, which would

5   include a customer number, and use that customer

6   number going back to the Header file and find all of

7   the records that include that customer number?

8   A   Yes.

9   Q   And, similarly, if I wanted to find --

10   which is more germane to what we're talking about

11   here -- a specific item number, can I start with the

12   Detail file, find all of the records that include an

13   item number, and then use the invoice number data

14   and go back to the Header file to find all the

15   invoices that included that item number?

16   A   Yes.

17   Q   Going back to our process, I believe you

18   said that after the shipping information is entered

19   into the system. The system generates an invoice;

20   is that right?

21   A   Yes.

22   Q   Account invoice be changed after it has

23   been generated?

24   A   Only limited information.

25   Q   What information can be changed?

1   A   Ship To Address, payment term,

2 salesperson, invoice date.

3   Q   Invoice date?

4   A   Yes.

5   Q   Now to change the Ship To Address one

6 would make changes in the Ship To Address file?

7   A   Yes.

8   Q   And to change the payment term --

9   A   It would be --

10   Q   But where would that information be

11 changed?

12   A   It would be the Header file.

13   As a matter of fact, there are more

14 information in those file. I didn't specify each of

15 them.

16   Q   So the Header file includes the invoice

17 number?

18   A   Yes.

19   Q   Includes the customer number?

20   A   Yes.

21   Q   Includes the invoice date?

22   A   Yes.

23   Q   Includes the payment terms?

24   A   Yes. Salesperson.

25   Q   Salesperson?

1   A   Total invoice amount.

2   Q   Total invoice amount?

3   A   Yes. Should be shipping method. Customer

4 PO number.

5   MR. LERNER: Leslie, would you mind repeating

6 that.

7   (The record was read.)

8 BY MR. WILTON:

9   Q   Let's do this, let's look at Exhibit 138

10 that we previously marked, which I believe is a --

11 have you seen a document like this before?

12   A   Yes.

13   Q   With regard to the Header file, does this

14 refresh your recollection as to whether there is any

15 other information that is included in the Header

16 file?

17   A   FOB and order number.

18   Q   What is FOB? Not what does it stand for,

19 but what does it mean in the context of the Header

20 file?

21   Let me rephrase my question. If we're

22 looking at this particular exhibit, it says, "FOB,"

23 and underneath it says, "Origin."

24   Do you see that?

25   A   Yes.

1   Q   Do you know what that information is

2 intended to convey?

3   A   It means it ship from the original

4 location, that means Jay-Y warehouse.

5   Q   The FOB information would be included in

6 the records of the Header file?

7   A   Yes.

8   Q   And let's start at the top here. We

9 have -- very top right-hand corner we have an

10 invoice number. It says 940013.

11   Do you see that?

12   A   Yes.

13   Q   Would that information be included in the

14 Header file?

15   A   Yes, that's the invoice number.

16   Q   And that information, I believe, is also

17 included in -- or by reference in the Detail, Ship

18 To Address and Comments file?

19   A   Yes.

20   Q   Can it be changed after it has been input?

21 Can it be changed in any of those files?

22   A   Except the Detail file. Detail file

23 cannot be changed after "Save."

24   Q   So the information in the Detail file

25 cannot be changed after the invoice is generated; is

1   that right?

2   A   Yes.

3   Q   But with regard to the Header file, can

4   some of that information be changed after the

5   invoice is generated?

6   A   Yes.

7   Q   Can the invoice number be changed?

8   A   No.

9   Q   Can the customer number be changed?

10   A   No.

11   Q   Can the invoice date be changed in the

12   Header file?

13   A   Yes.

14   Q   Can the payment terms be changed in the

15   Header file?

16   A   Yes.

17   Q   Can the identity of the salesperson be

18   changed in the Header file?

19   A   Yes.

20   Q   Can the total invoice amount be changed in

21   the Header file?

22   A   No.

23   Q   Can the shipping method be changed in the

24   Header file?

25   A   Yes.

1   Q   Can the customer purchase order number be

2 changed in the Header file?

3   A   Yes.

4   Q   Can the origin information be changed in

5 the Header file?

6   A   Yes.

7   Q   Just looking at Exhibit 138, is the "Ship

8 Via" information in the Header file as well?

9   A   Yes.

10   Q   Can that be changed?

11   A   Yes. That's shipping method, should be

12 shipping method.

13   Q   Shipping method?

14   A   Yeah.

15   Q   So the shipping method could be either by

16 UPS or by FedEx or something like that; is that what

17 you're referring to?

18   A   Yes.

19   Q   I notice this actually includes order

20 date. Can that be changed in the Header file, after

21 an invoice is generated?

22   A   Yes.

23   Q   And there is also a line here that says

24 "Our Order Number."

25   Do you see that?

1   A   Yes.

2   Q   Is that the sales order number that you

3 were referring to earlier?

4   A   Yes.

5   Q   Can "Our Order Number" information be

6 changed in the Header file?

7   A   Yes, but not recommend.

8   Q   Why wouldn't it be recommended?

9   A   You lose track with your sales order.

10   Q   Where is the sales order information kept?

11 Is that in another file we haven't talked about?

12   A   Yes.

13   Q   What file is that?

14   A   Start with SO MAST, SO TRAN, SO SHIP, SO

15 COMM.

16   Q   So it has four files?

17   A   And AR CUST for the billing address.

18   Q   Does "M-A-S-T," stand for "master" in SBT?

19   A   Yes, master.

20   Q   So the sales order number that appears in

21 the Header file should refer to a sales order number

22 that appears in the SO MAST file; is that right?

23   A   Yes.

24   Q   And the SO TRAN file, would that be

25 equivalent to the Detail file that we talked about

1   ·with regard to invoices?

2   A   Yes.

3   Q   So when the salesperson is entering the

4   data that we talked about half an hour ago, they are

5   entering it into the SO TRAN file?

6   A   Yes.

7   Q   And when the invoice is generated, is that

8   information put into the record in the Detail file?

9   A   Yes.

10   Q   Or the corrected information -- or the

11   correct information is put into the Detail file?

12   A   Corrected.

13   Q   When I say "correct" I'm referring to the

14   situation you described where you have order 20,

15   which is in the Sales Order Detail file, but you

16   only ship 18?

17   A   Yes.

18   Q   Other than what we talked about, is there

19   any other information that you recall being in the

20   Header file for the invoices?

21   A   There are some system mentioned in this

22   data, but it is not relate to this invoice, that

23   printout.

24   Q   We walked through a number of these items,

25   and several of them you said could not be changed

1   after the invoice is generated.

2   Do you recall that?

3   A   Yes.

4   Q   That included the invoice number, the

5   customer number and the total invoice amount.

6   A   Yes.

7   Q   What would stop someone from changing it?

8   A   Because SBT doesn't provide the function

9   to change it.

10   Q   Do you know why not?

11   A   Because those information is formal

12   financial information.

13   The billing amount, the customer number,

14   invoice number, those are the critical important

15   information to accounting.

16   Q   So is the software intended to avoid

17   having the user change the books in some fashion?

18   A   Yes.

19   Q   Now turning to the Detail file for

20   invoices, which is the AR TRAN, now that we have

21   introduced the similar Sales Order file, but looking

22   at just the Invoice Detail file, you mentioned that

23   it included the item number, quantity, invoice date

24   and --

25   A   Price.

1   Q   Price? Is there any other information?

2   A   Customer number, salesperson.

3   Q   Item number, quantity, invoice date,

4 price, customer number. Is there other information

5 in the Detail file?

6   A   Salesperson.

7   Q   Salesperson. I'll stop repeating.

8   Anything else?

9   A   Discount.

10   Q   And working through those items, after the

11 invoice is generated, can someone change the item

12 number information that is in the Detail file?

13   A   No.

14   Q   Can someone change the quantity

15 information that is in the Detail file?

16   A   No.

17   Q   Can someone change the invoice date that

18 is in the Detail file?

19   A   No.

20   Q   Can someone change the price that is in

21 the Detail file?

22   A   No.

23   Q   Can someone change the customer number

24 that is in the Detail file?

25   A   No.

1   Q   Can someone change the name of the

2   salesperson in the Detail file?

3   A   No.

4   Q   Can someone change the discount

5   information that is in the Detail file?

6   A   No.

7   Q   Is there any way to modify the Detail file

8   at all?

9   A   No.

10   Q   Looking at the next file that we talked

11 to, the Ship To Address file, each record of that

12 file, what does each record of that file include?

13   A   Address, city, state, Zip Code.

14   Q   Anything else?

15   A   Invoice number, company name.

16   Q   Any other information?

17   A   No.

18   Q   And after an invoice is generated, can

19 someone change the address, city, state, Zip Code

20 and company information?

21   A   Yes.

22   Q   Can someone change the invoice number?

23   A   No.

24   Q   And with regard to the Comments file,

25 after an invoice is generated with regard to each

1 record, what information is in each record of the

2 Comments file?

3   A   Comments, invoice number.

4   Q   Any other information?

5   A   No.

6   Q   And after the invoice is generated, can

7 someone go back and change the comments in the

8 Comments file?

9   A   Yes.

10   Q   Can someone go back and change the invoice

11 number?

12   A   No.

13   Q   And, finally, with regard to the Customer

14 file, what does each record of the Customer file

15 include?

16   A   Address -- company name, customer number,

17 address, city, state, Zip, phone number,

18 salesperson, payment term.

19   Q   Does it include the invoice number?

20   A   No.

21   Q   And after an invoice is -- actually, does

22 the generation of an invoice have any effect on the

23 Customer file?

24   A   Yes. Actually, there is one more field

25 in -- one more information in the Customer file.

1   That is the balance, customer balance. So when you

2   generate the invoice, system will add the invoice

3   amount to the balance.

4   Q   So if we look at, using this page, first

5   page of Exhibit 138 -- first two pages, when this

6   invoice was generated, was the information taken

7   from the Header file, which was the total invoice

8   number at the bottom, was that added to the balance

9   for this customer?

10   A   Yes.

11   Q   In terms of changing information in the

12 Customer file after an invoice is generated, what

13 information cannot be changed in that file?

14   A   Customer number and balance.

15   MR. WILTON: Why don't we take a quick break.

16 We have been going for a little while.

17   (A recess was taken from

18   10:56 a.m. to 11:10 a.m.)

19 BY MR. WILTON:

20   Q   If Jay-Y had a situation where it needed

21 to change an invoice, how would it go about doing

22 that after it had been generated?

23   A   There's a function called "Change/Void

24 Invoice."

25   Q   And what did that function do?

1   A   The function allowed them to change

2 partial information of the invoice or void the whole

3 invoice.

4   Q   What information could be changed using

5 the "Change" function?

6   A   Invoice date, salesperson, payment term,

7 Ship To address, shipping method, salesperson.

8   Q   So some of the information that you

9 discussed earlier that could be changed in the

10 Header file you could change using the "Change

11 Invoice" function?

12   A   Yes.

13   Q   If Jay-Y needed to change the quantity of

14 one of the items, how would it go about doing that?

15   A   Either void this invoice and recreate

16 another sales order.

17   Q   Or?

18   A   "Enter Credit Memo." That's another

19 function.

20   Q   And if one entered a -- if the invoice was

21 voided, using our example here, let's assume that

22 invoice No. 940013 was voided, what would happen to

23 the date for that invoice?

24   A   It is like system will create a reverse

25 transaction for this invoice.

1   Q   So if one voided an invoice, would that

2 change the information in the Detail file?

3   A   Yes.

4   Q   And how would it change that information?

5   A   It will have a reverse information. For

6 example, like the quantity shipped is 1, it will

7 create a negative 1.

8   Q   If I had voided invoice No. 940013, and

9 then I wanted to pull up the information for the

10 invoice, what information would end up being pulled

11 up? Would it be just the invoice, or would it be

12 the invoice and the negative transaction?

13   A   Both.

14   Q   I believe you mentioned that the invoice

15 could also -- not the invoice, the software could

16 also track purchase orders.

17   A   Yes.

18   Q   And are those purchases made by Jay-Y of

19 product?

20   A   Yes.

21   Q   And how -- what would be the steps taken

22 to track a purchase order? What would be the first

23 step?

24   A   First they enter the vendor number.

25   Q   And would this be similar to what we

1   described before? There is a prompt that says,

2   "Vendor Number," and you type in a number and hit

3   "Return"?

4   A   Yes.

5   Q   Who generates vendor numbers?

6   A   Jay-Y.

7   Q   And is a vendor number, could it also be

8   letters or numbers?

9   A   Yes.

10   Q   And so the person creating or tracking a

11 purchase order would type in the vendor number, hit

12 "Enter," and would information then appear on the

13 screen regarding that vendor?

14   A   Yes.

15   Q   Would that include things like the name of

16 the vendor, the address of the vendor? Anything

17 else?

18   MR. LERNER: Objection.

19   THE WITNESS: Yes.

20 BY MR. WILTON:

21   Q   What would be included when I type in a

22 vendor number and hit "Enter"?

23   A   It would pull out the vendor address,

24 company name, address, and also ask for purchase

25 order date, shipping method, payment term.

1   Q   Would the screen then prompt the user to

2 type in the purchase order date, the shipping

3 method, the payments and the payment term?

4   A   Yes.

5   Q   Similar to what we described before where

6 you could type in item numbers and quantity and

7 price?

8   A   After you save the Header, yes, the system

9 will prompt you to enter the item number, quantity

10 and price.

11   Q   In entering the item number, quantity and

12 price, is that the same kind of circular function

13 where you could enter it for one item and then enter

14 it for another item and then enter it for another

15 item?

16   A   Yes.

17   Q   And if you hit nothing for next item,

18 does -- where did the screen go after that?

19   A   It will ask you if you want to save the

20 purchase order.

21   Q   If the user then hits "Saved" what would

22 happen next with regard to the purchase order?

23   A   It will assign a purchase order number,

24 and save the data -- actually, purchase order is

25 like a counterpart of the sales order.

1   So the file name will be similar to those

2   file name, except start with "PO."

3   Q   This is all beginning to make sense to me.

4   After the data was saved, that purchase

5   order, could it be changed?

6   A   Yes.

7   Q   Was there any information in the purchase

8   order records that could not be changed after it was

9   entered?

10   A   Before we received the merchandise, every

11   information except the purchase order number and the

12   vendor number cannot be changed. Other information

13   can be changed.

14   Q   Just for the record there was a PO MAST

15   file?

16   A   Yes.

17   Q   And what information was contained in --

18   for our purposes, to make the court reporter not

19   shoot me, and to make it a little bit clearer, can

20   we call the PO MAST file the Purchase Order Header

21   file?

22   A   Yes.

23   Q   What information was contained in the

24   Purchase Order Header file?

25   A   Yes, vendor number, purchase order number,

1   purchase order date, purchase order amount, received

2   amount.

3   Q   Received amount?

4   A   Yeah. Payment term, shipping method. And

5   some other system maintenance information.

6   Q   I think I know -- I'll just ask it.

7   Vendor number is the four- or five-letter -- three-,

8   four-, five-letter string that Jay-Y used to

9   identify each of its vendors; right?

10   MR. LERNER: Objection.

11   THE WITNESS: Yes.

12   BY MR. WILTON:

13   Q   And the PO number, was that what you

14   described, it's assigned when the data was saved?

15   A   Yes.

16   Q   And the purchase order date was simply the

17   date when the purchase order was entered on the

18   system?

19   A   Yes.

20   Q   The purchase order amount, what was that?

21   A   It's the total amount for this purchase

22   order.

23   Q   In dollars?

24   A   Yes.

25   Q   And what was the received amount?

1   A   Received amount is the dollar amount they

2 received the merchandise. By nature purchase order

3 not always receive in full. Sometimes partial

4 received.

5   Q   And so was the received amount -- when a

6 purchase order was first entered onto the system,

7 was the received amount zero?

8   A   Yes.

9   Q   And when each portion of -- or each

10 shipment of merchandise that related to that

11 shipment was received, was the received amount --

12 that was changed to reflect whatever dollars Jay-Y

13 was charged for that shipment?

14   A   Yes.

15   Q   So if we have a situation where a purchase

16 order is filled in three shipments, would the

17 received amount figure just go up each time a

18 shipment was received?

19   A   Yes.

20   Q   When the purchase order was first saved is

21 there any of the information in the Purchase Order

22 Header file that could not be changed?

23   MR. LERNER: Objection.

24   THE WITNESS: Purchase order number and vendor

25 number.

1 BY MR. WILTON:

2   Q   Anything else, ignoring the system

3 maintenance portion of it?

4   A   Received amount is maintained by the

5 system.

6   Q   And when a shipment was received, was

7 anything done to the purchase order information?

8   A   They update the received amount.

9   Q   Actually, I think I probably jumped ahead

10 of myself. Is there, like these other functions we

11 have talked about, was there a Detail file for

12 purchase orders?

13   A   Yes. PO TRAN.

14   Q   How logical.

15   MR. LERNER: P-r-a-n? "P" as in "Peter"?

16   MR. WILTON: "T" as in "TRAN." It would be

17 shocking if they changed the format.

18   MR. LERNER: Thought so, but checking.

19 BY MR. WILTON:

20   Q   Are we okay if we call the PO TRAN file

21 the Purchase Order Detail file?

22   A   Yes.

23   Q   When whoever was placing or creating the

24 purchase order put in the data that we talked about,

25 in terms of item number and price, would that

1   information be put into the Purchase Order Detail

2   records?

3   A   Yes.

4   Q   And those would relate back to the

5   Purchase Order Header file through the purchase

6   order number; would that be right?

7   A   Yes.

8   Q   And after the -- whoever input the

9   Purchase Order Detail information, could that be

10   changed?

11   A   Yes.

12   Q   Was there ever a time when that

13   information -- in the process when that information

14   could not be changed?

15   A   Only after this purchase order is received

16   in full, it is closed, then you cannot changed the

17   purchase order.

18   Q   Who was able to close a purchase order?

19   A   System decide if this purchase order is

20   received in full.

21   Q   So if we have a situation where a purchase

22   order is created for 100 items, and those 100 items

23   are received, then the system would automatically

24   close the purchase order?

25   A   Yes.

1   Q   Now let's go to the receiving process.

2   What happened on that end, with regard to purchase

3   orders?

4   A   SBT provide a function called Received

5   Purchase Order. The user enter the purchase order

6   number, received date and the received quantity.

7   Q   Did the -- do you know who at Jay-Y was

8   responsible for doing that?

9   A   Accounting Department.

10   Q   In the Received Purchase Order function --

11   forgive me, that is what it was called "Received

12   Purchase Order" function?

13   A   Yes.

14   Q   Was the Accounting Department also

15   required to input the dollar figure for what was

16   received?

17   A   Yes, they can enter the unit price, if

18   different than the purchase order.

19   Q   Okay. In other words, if -- when the

20   purchase order was created for our 100 items at a

21   dollar fifty each, and when it came in, the dollar

22   figure or the price was $1.25 under the Received

23   Purchase Order function, that -- the accounting

24   person could make it $1.25?

25   A   Yes.

1   Q   Would that have -- if the unit price was

2 different, would that have an effect on the original

3 purchase order data?

4   A   It will update the original transaction

5 file.

6   Q   Does the SBT software during the --

7 Version 6, did it have any procedures for ensuring

8 that the information in the software remained

9 secure?

10   A   After you receive the purchase order, the

11 received quantity and the amount cannot be changed.

12   Q   Why could it not be changed?

13   A   Again, it is related to your financial

14 statement. That's your inventory value.

15   Q   By the software not allowing you to change

16 that, a user could not intentionally or accidentally

17 alter its actual costs and inventory?

18   A   SBT didn't provide the function for you to

19 change.

20   Q   With regard to the data from the 1993 to

21 1999 period, what happened to that data when Jay-Y

22 updated to Version 10 of SBT?

23   A   The system upgrade those data to the

24 Version 10.

25   Q   I believe you testified that the -- when

1   Jay-Y moved from the SBT software to the MAS 90

2   software the SBT files remained on their server; is

3   that right?

4   A   Yes.

5   Q   Have you ever heard of the concept of a

6   month-end or year-end close?

7   A   Yes.

8   Q   What was that?

9   A   SBT required the user to do the month's

10 end closing at the end of every month. They moved

11 the data from the Current file to the History file.

12   Q   Which data would be moved?

13   A   Almost every data.

14   Q   Why -- what was the purpose of a month-end

15 close?

16   A   To speed up the processing because you

17 want to reduce the size of the Current file.

18   Q   Besides moving current information to a

19 History file, did that have an effect on the data

20 itself?

21   A   No.

22   Q   Were there any other periodic closings

23 that occurred in using the SBT software?

24   A   No.

25   Q   Was there a year-end close too?

1   A   For December is the year-end closing.

2   Q   But was the process for December the same

3 as the process for November for the user?

4   A   Yes.

5   Q   Was the process for December different

6 from the process for November, in terms of the

7 software?

8   A   Only one information is update, that's the

9 year-to-date information.

10   Q   What year-to-date information?

11   A   Like customer year-to-date, your sales

12 amount.

13   Q   And after the November month-end close,

14 was it possible to know what a customer had

15 purchased year-to-date?

16   A   Yes.

17   Q   And would it then reset to zero after the

18 December close?

19   A   Yes.

20   Q   Once the data was moved from the Current

21 file to the History file, could it be changed?

22   A   No.

23   Q   And turning back to the files we discussed

24 with regard to invoices, the Header, Detail, Ship To

25 Address, Comments and Customer files, were those all

1   moved to historical files at each close?

2   A   Only the Master file, the Header and the

3   Detail. The Ship To information and the Comment,

4   they don't save in the History file.

5   That mean after you close the information

6   is lost. Because they are not important information

7   to the invoice.

8   Q   You said they were lost?

9   A   Yes, they didn't transfer -- they don't

10   have a History file to save Ship To Address or

11   Comment file.

12   Q   So with regard to those files, were they

13   deleted?

14   A   Yes.

15   Q   So if I wanted to ship to a customer after

16   the month-end close, was the Ship To file no longer

17   there?

18   A   No.

19   Q   Okay. Then I'm confused what. What's

20   deleted after each close?

21   A   The Ship To Address and the Comment file,

22   they don't have a History file to save those

23   information. I don't know why SBT designed this

24   way.

25   Q   So if we look at the Ship To file each

1 record included address, city, state, Zip Code,

2 invoice number, company name; right?

3   A   Yes.

4   Q   And after the month-end close that record

5 would be deleted?

6   A   Yes.

7   Q   And with regard to the Comments file,

8 those records included comments and invoice number;

9 right?

10   A   Yes.

11   Q   And at the end of a month-end close each

12 of those records would be deleted?

13   A   Yes.

14   Q   And with regard to the -- how about with

15 regard to the customer file, were any of those

16 records deleted?

17   A   No.

18   Q   They just were not -- were they just not

19 copied to historical files?

20   A   No, customer file only one file, no

21 history.

22   Q   And the customer file records don't

23 include an invoice number, do they?

24   A   No.

25   Q   They are referenced by the customer

1 number, not the invoice number?

2   A   Yes.

3   Q   Did anything happen with regard to the

4 balance that was included in each record of the

5 customer file at the end of a month-end close?

6   A   No. It won't be changed unless customer

7 paid the invoice.

8   Q   Were you ever asked by Jay-Y to create

9 reports from the SBT files?

10   A   Only when export the information to Excel.

11   Q   How often did that occur?

12   A   Not very often.

13   Q   Do you recall the first time that you were

14 asked to export information to Excel?

15   A   I don't remember.

16   Q   Did SBT -- either version of the SBT

17 software have a function for exporting data to an

18 Excel file?

19   A   No.

20   Q   How did you go about doing that?

21   A   I used the program called FoxPro. That's

22 the programming language to develop the SBT

23 accounting system. I used that program to open the

24 database and retrieve the record, then convert into

25 the Excel file.

1   Q   Were you asked, in 2009 by Jay-Y, to

2 create reports with regard to specific model

3 numbers?

4   A   Yes.

5   Q   What were you asked to do?

6   A   They gave me a list of the item number,

7 and they want me to retrieve the record, the sales

8 record and the purchase record for certain date

9 range.

10   Q   Who asked you to do that at Jay-Y?

11   A   Teresa.

12   Q   What was the first step you took in order

13 to retrieve that information?

14   A   I have to find out where is their data.

15   Q   Were you able to find the data?

16   A   Yes.

17   Q   Where was it?

18   A   On their server.

19   Q   Where was the server located?

20   A   In their office.

21   Q   How was the data kept? That question may

22 not make any sense. Strike that.

23   In what format was the data kept?

24   A   The FoxPro format.

25   Q   So did you actually go to Jay-Y in order

1   to create these reports?

2   A   Yes.

3   Q   And were you able to find data with regard

4   to the item numbers that you were provided?

5   A   Yes.

6   Q   Were you able to find data with regard to

7   all of the item numbers that you were provided?

8   A   Yes.

9   Q   Knowing what we now know about the various

10 files, in which file did you look first in order to

11 find -- let's start with sales information, with

12 regard to each of the item numbers?

13   A   Invoice Detail file.

14   Q   And what information were you able to pull

15 from the Invoice Detail file?

16   A   Item number, invoice number, customer

17 number, invoice date, quantity and price.

18   Q   Were you able to essentially find every

19 record that included a specific item number?

20   A   Yes.

21   Q   What did you do next, in terms of creating

22 an Excel spreadsheet or Excel export of this data?

23   A   In FoxPro there is a command called

24 "Export," so I used the command to export lost

25 record into Excel file.

1   Q   Did you pull any data from any other of

2 the five files that we have discussed?

3   A   For the Excel file I only used the Detail

4 file.

5   Q   Did you create separate Excel files for

6 each of the item numbers?

7   A   For separate years. Not the item number.

8   Q   In pulling the data from the Detail

9 file -- let me strike that.

10   On Jay-Y's server were there separate

11 files for each year --

12   A   No.

13   Q   -- or was there just one big Detail file?

14   A   One big Detail file.

15   Q   And that Detail file included all the data

16 from the time you installed the software to the time

17 they stopped using the software?

18   A   Yes.

19   Q   So when you ran a search on the Detail

20 file for a specific item number, did you export that

21 information first, or did you do other searches

22 before you exported the information?

23   MR. LERNER: Objection.

24   THE WITNESS: I searched the information first,

25 then export.

1   BY MR. WILTON:

2   Q   How did you separate it by year?

3   A   In the program I wrote it to extract the

4   record, I had to specify the invoice date range, so

5   you would only retrieve the record during that year.

6   Q   So the program that you wrote, you ran --

7   is it correct you ran it against only the Detail

8   file?

9   A   Yes.

10   Q   And did the program include the whole list

11 of item numbers, or did you have to run it each time

12 for each item number?

13   A   Each time for every item number.

14   Q   And so if I understand correctly -- what

15 was the output of that program?

16   A   It would be like a record set, then I

17 export this record set to Excel file.

18   Q   So would your program -- did your program

19 create little FoxPro files?

20   A   Yes, first.

21   Q   So if, for example, you were looking for

22 item No. 252A, in the first instance you would have

23 ended up with separate little databases or database

24 files for item No. 252A for 1993, and '94 and

25 '95 and '96 and '97 and '98; is that right?

1   A   Yes.

2   Q   And you'd have all of those for each of

3   the items?

4   A   Yes.

5   Q   And then did you take steps to combine

6   those by year?

7   A   Yes.

8   Q   How did you do that?

9   A   In FoxPro there is an "Append" command, so

10   I just append each small file to this year.

11   Q   So if, for example, you were looking for

12   252A and 265A, the first step you would end up with

13   six or seven 252A files and six or seven 265A files;

14   is that right?

15   A   Yes.

16   Q   And then you used the "Append" function to

17   create a file for 1993 that included 252A and 265A?

18   A   Yes.

19   Q   After that file was created then you

20   exported it to Excel?

21   A   Yes.

22   Q   I'd like to show you what we have marked

23   as Exhibit 137, and this is the second page I'm

24   showing you.

25   Does this information look like the

1 information that you were able to extract from the

2 SBT files at Jay-Y?

3   A   Yes.

4   Q   And so going back to what we were talking

5 about earlier, we have in the first column, the item

6 number, which it is my understanding could not be

7 changed after the Detail file was entered?

8   A   Yes.

9   Q   The invoice number --

10   A   Yes.

11   Q   -- which could not be changed after the

12 Detail file was -- after the invoice was created?

13   A   Yes.

14   Q   The customer number which could not be

15 changed after the invoice was created?

16   A   Yes.

17   Q   The invoice date which also could not be

18 changed after the invoice was created?

19   A   Yes.

20   Q   The unit price which could not be changed

21 after the invoice was created?

22   A   Yes.

23   Q   Quantity which also could not be changed

24 after the invoice was created?

25   A   Yes.

1   Q   And total sales figure which also could

2 not be changed after the invoice was created?

3   A   Yes.

4   Q   And all of this data was from the Detail

5 file?

6   A   Yes.

7   Q   Did you also go through the same process

8 with regard to the Purchase Order files?

9   A   Yes.

10   Q   And so am I correct that you, using the

11 Purchase Order Detail file, which is PO TRAN, is

12 that where you looked, or did you look someplace

13 else?

14   A   Actually, there is another file for

15 receiving. It is called "PO RECP." Receipt.

16   Q   Maybe we should talk about how that file

17 was created. How was the PO RECP file created in

18 SBT?

19   A   When you are performing received purchase

20 order, then SBT save the receiving information in

21 this file.

22   Q   So you described earlier when a shipment

23 was received by Jay-Y in the SBT system there was a

24 received purchase order function?

25   A   Yes.

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1   Q   And in that received purchase order

2   function, was it the accountant that input that

3   information?

4   A   Yes.

5   Q   The accountant could input the --

6   A   Purchase order number --

7   Q   -- purchase order number --

8   A   Received date, item number, received

9   quantity.

10   Q   After that information was saved could any

11   of it be changed in the PO RECP file?

12   A   No.

13   Q   So in looking for the information that

14   Jay-Y was looking for in 2009, you ran your searches

15   against the PO RECP file; is that right?

16   A   Yes.

17   Q   And were you able to find information with

18   regard to any of the item numbers that you were

19   given to search for?

20   A   Yes.

21   Q   Were you able to find information for all

22   of the item numbers that you were given to search

23   for?

24   A   Yes.

25   Q   And did you create individual files for

1 each -- strike that.

2   When you first searched, did you end up

3 creating individual files by item number and year

4 for each of the item numbers you were searching for?

5   A   Yes.

6   Q   And did you then append each of the files

7 for each of the years together?

8   A   Yes.

9   MR. LERNER: Objection.

10 BY MR. WILTON:

11   Q   So for 1993 you appended whatever files

12 you found for 1993 together?

13   A   Yes.

14   Q   Is that right?

15   A   Yes.

16   Q   And same with 1994?

17   A   Yes.

18   Q   Same for the other years?

19   A   Yes.

20   Q   And after they were appended, did you then

21 export them to Excel?

22   A   Yes.

23   Q   Let me -- I'm showing you Exhibit 139,

24 the second page. Have you ever seen this before?

25   A   Yes.

1   Q   And is this a printout of the Excel

2 spreadsheet that you were able to export from the

3 SBT software with regard to purchases for 1995?

4   A   Yes.

5   Q   And with regard to the information that is

6 contained on this sheet, the first column is the

7 purchase order number; is that right?

8   A   Yes.

9   Q   Could that be changed in the PO RECP file?

10   A   No.

11   Q   Which for sake of our court reporter, can

12 we call that the Purchase Order Received file?

13   A   Yes.

14   Q   And with regard to the vendor number,

15 could that information be changed in the Purchase

16 Order Received file?

17   A   No.

18   Q   Could any of the information on this page

19 be changed in the Purchase Order Received file?

20   A   No.

21   Q   After -- all my questions relate to after

22 the accountant input the information and hit

23 "Save" -- then it could not be changed; is that

24 right?

25   A   Yes, that's correct.

1   Q   After you created these spreadsheets, the

2 Excel spreadsheets, what did you do with them?

3   A   I gave it to Jay-Y.

4   Q   Did you print out any information for

5 Jay-Y?

6   A   No.

7   Q   I'd like to direct your attention to --

8 was there a -- strike my last question. Was there a

9 function in the SBT software that would print an

10 invoice?

11   A   Yes.

12   Q   Was it called something like "Print

13 Invoice"?

14   A   Yes.

15   MR. LERNER: Objection.

16 BY MR. WILTON:

17   Q   If one wanted to print an invoice in the

18 SBT software, what steps would take you to do that?

19   A   Just enter the invoice number, and it will

20 print out the invoice.

21   Q   Did the software allow you to change the

22 format of the invoice?

23   A   Minor, minor change.

24   Q   What kind of minor changes could one make?

25   A   Where you want to put the invoice number

1   or customer number, not a detail.

2   Q   So looking at the Exhibit 138, the first

3   page, other than the invoice number at the top of

4   the page, was there any other formatting changes

5   that could be made?

6   A   Just the company name, the font and the

7   logo.

8   Q   And was that something that the user would

9   set up?

10   A   No, usually I did it for them.

11   Q   Was there a function in the SBT software

12   to print just pieces of information that one would

13   find on an invoice? Let me rephrase that.

14   Was there a function in the SBT software

15   that would allow you to print out the customer

16   information that was contained in the customer file?

17   A   Yes.

18   Q   And could the user just print the customer

19   file without printing invoices?

20   A   Yes.

21   Q   Was there a function in the software that

22   would allow you to print just the Detail information

23   from the AR TRAN file if you wanted to?

24   A   Yes.

25   Q   So when you -- using the "Print Invoice"

1   function, when you type in the invoice number and

2   hit "Return," what did the software do in order to

3   print an invoice?

4   A   The software used this invoice number and

5   the customer number to retrieve the related

6   information and put it together to create this

7   report. For software, this is a report. That is

8   how SBT did it.

9   Q   So if one wanted to, could one create a

10 report that would not look like this, but would

11 simply have maybe the invoice number and detail

12 information underneath?

13   A   Yes, SBT provide the report for the detail

14 information, but the format or the information

15 included in the report may not be needed for user.

16 They put some extra information, like the sales tax.

17   But actually for Jay-Y, they don't have a

18 sales tax, so is kind of waste of space, and those

19 information is not important. So that's why -- and

20 that is the printed version. It is not the Excel

21 format.

22   Q   But if for some reason -- strike that.

23   You're calling what we're looking at,

24 Exhibit 138, a report; am I right?

25   A   Yes.

1   Q   Is really what we're looking at simply

2   information that is taken from the SBT system and

3   put onto a page?

4   A   Yes.

5   Q   And it happens to be in a format that

6   looks like an invoice, but could it be in any format

7   that one created?

8   A   Yes.

9   Q   I'd like to show you something that we

10   have marked as part of Exhibit 144, and it is page

11   JAY-Y00732. I'd like to focus your attention on the

12   top where it says, "Bill To" and "Ship To."

13   Do you see that?

14   A   Yes.

15   Q   There is a line here that says, "No

16   catalog."

17   Before we get to that, the "Bill To"

18   information, from which file is that extracted?

19   A   Customer file.

20   Q   And in order to create this report does

21   SBT just list certain fields in certain places on

22   the page?

23   A   Yes.

24   Q   A field being what you described as -- for

25   example, "Address" is a field; is that right?

1   A   Yes.

2   Q   And "City" is a field?

3   A   Yes.

4   Q   "State" is a field?

5   A   Yes.

6   Q   So if one took the fields and switched

7 them around and put, "State, City, Zip Code," it

8 would print that way?

9   A   Yes.

10   Q   And is the "No catalog" phrase here, is

11 that something that was in an SBT field in the

12 customer --

13   A   Address.

14   Q   -- in the Address database?

15   A   Yes, SBT provide two Address line.

16   Q   So one line could be a suite number and

17 the next line could be the street address?

18   A   Yes.

19   Q   Or in this case one line could be the

20 street address and the next line could say "No

21 catalog"?

22   A   Yes.

23   Q   If this invoice was printed, or this

24 report was printed in 2009, it would pull up

25 whatever data was in the customer information?

1   A   Yes.

2   Q   Based on the customer number of SUNPO,

3 with regard to this particular report that we're

4 looking at, the software, simply looks at the

5 customer number of "SUNPO" and pulled up whatever

6 fields were populated in that record on this report?

7   A   Yes.

8   Q   And because the Customer Address file

9 could be updated over time, this could have changed

10 between 1993 -- or 1996 and 2009; is that correct?

11   A   That's correct.

12   Q   But the Detail information could not have

13 changed; is that right?

14   A   No, Detail remain the same.

15   Q   And the total amount that appears at the

16 bottom right-hand corner, could that have been

17 changed?

18   A   No.

19   Q   If we look at Exhibit 147 -- and I'm

20 looking specifically at pages JAY-Y01160 and 1161 --

21 if I can show that to you, if you look in the "Bill

22 To" information, do you see that?

23   A   Yes.

24   Q   What does the report say for the "Bill To"

25 information?

1   A   "Invalid customer number."

2   Q   What does that mean in the parlance of the

3 SBT software system?

4   A   That means the SBT system could not find

5 the record in customer files because the record may

6 be deleted.

7   Q   If this was printed in 2009, it is looking

8 at the customer file as it existed in 2009; is that

9 right?

10   A   Yes.

11   Q   And with regard to the Detail information

12 that appears on this report, that information could

13 not have been changed from the time it was entered;

14 is that right?

15   A   Yes.

16   Q   If we look at Exhibit 145, does 145,

17 starting at the second page, look like the

18 information that you extracted from the SBT software

19 in the form of the Excel spreadsheet?

20   A   Yes.

21   Q   This information came from the Detail

22 file; is that right?

23   A   Yes.

24   Q   And in the fourth column there is an

25 invoice date.

1   Do you see that?

2   A   Yes.

3   Q   Could that invoice date have been changed

4 in the SBT file?

5   A   The Header file invoice date can be

6 changed, but not the Detail.

7   Q   And the information we see, starting on

8 the second page of Exhibit 145, that information

9 came from the Detail file; is that right?

10   A   Yes.

11   Q   So is it correct, then, that the dates

12 that appear under invoice dates are the dates when

13 that Detail file was saved?

14   A   Yes.

15   Q   And the invoice was created?

16   A   Yes.

17   Q   So if we look at Exhibit 145, and we look

18 for the line item for the invoice we were looking

19 at, which is JAY-Y01610 and 1161, the invoice number

20 that appears at top of that page is 96345; is that

21 right?

22   A   Yes.

23   Q   Does that invoice appear on Exhibit 145 in

24 this spreadsheet?

25   A   Yes.

1   Q   Is there a date associated with that

2 invoice on Exhibit 145?

3   A   October 4, 1996.

4   Q   So according to the SBT file, then, that

5 is the date when the Detail information that appears

6 on JAY-Y01160 to 01161, that's when this Detail

7 information was created; is that right?

8   A   Yes.

9   MR. WILTON: I have nothing further for this

10 witness at this time.

11   Go off the record for a quick second?

12   (A recess was taken from

13   12:10 p.m. to 12:18 p.m.)

14

15   CROSS EXAMINATION

16 BY MR. LERNER:

17   Q   Good afternoon, Mr. Ou.

18   A   Yes.

19   Q   As Mr. Wilton explained, I'm Mark Lerner,

20 and I represent the Petitioner in this action, Gado

21 S.R.L.

22   I'm now going to ask you some questions

23 related to what Mr. Wilton was asking you this

24 morning.

25   Same rules apply, as far as waiting until

1   I finish my question before you answer. I'll try to

2   wait until you finish your answer before I ask my

3   next question. The answer should still be verbal,

4   spoken loudly, so the court reporter can hear and

5   take it down.

6   A   Okay.

7   Q   Good.

8   This morning you indicated that SBT is a

9   relational database. Can you explain what a

10   "relational database" is.

11   A   Relational database means there are

12   several files, and most files relate by a key

13   information. So like I explained in the morning for

14   the invoice they are Header file, Detail file, Ship

15   To file and Comment file, and they all linked,

16   related by invoice number.

17   Q   I think this morning you indicated that

18   workers in the Jay-Y warehouse had access to the SBT

19   system; is that right?

20   A   Yes.

21   Q   And that the only function that the

22   warehouse workers would use was the "Enter Shipment"

23   function; is that right?

24   A   Yes.

25   Q   But I believe you indicated that the

1   warehouse could change the order date in the SBT

2   file; is that right?

3   A   Not the order date, the invoice date.

4   Q   I guess I'm trying to get some clarity

5   here on what seemed to be -- I am not clear on

6   invoice dates versus order dates, and which file

7   things are in.

8   I think you had indicated at one point in

9   what had been referred to as the Detail file, so AR

10   TRAN file, that that invoice date could be changed

11   after it was input; whereas, after the invoice --

12   I'm sorry, the Header file, that the invoice date

13   could be changed, but in a Detail file --

14   A   It could not be changed.

15   Q   -- it could not be changed.

16   A   By user.

17   Q   What is the difference between the invoice

18   date that appears in the Header file and the invoice

19   date in the Detail file?

20   MR. WILTON: Objection. Vague and ambiguous.

21   BY MR. LERNER:

22   Q   Do you understand the question? Let me

23   back up.

24   Is it correct that there is an invoice

25   date, piece of data as part of the Header file?

1   A   Yes.

2   Q   Is it correct that there is an invoice

3   date as a piece of data as part of the Detail file?

4   A   Yes.

5   Q   And by Header file, here I'm referring to

6   AR MAST, and Detail file is AR TRAN. Do you

7   understand those to be the Header and Detail file?

8   A   Yes.

9   Q   So is there any difference between the

10   invoice date piece of data that appears in the

11   Header file and the invoice date piece of data that

12   appears in the Detail file?

13   MR. WILTON: Objection. Vague and ambiguous.

14   THE WITNESS: Originally they are the same.

15   BY MR. LERNER:

16   Q   What do you mean by "originally"?

17   A   When you save the invoice they are the

18   same. But once someone change the Header, then

19   maybe the Detail would be different than the Header

20   file.

21   Q   Looking, for example, at Exhibit 141,

22   the first page, which is JAY-Y001537, as an example

23   of an invoice, which I believe you actually

24   indicated in this circumstances is really a report

25   that is generated by SBT; is that right?

1   A   Yes.

2   Q   Looking at this report that is generated

3 by SBT, can you identify a place on the report that

4 the invoice date appears?

5   A   Yes, it is on the "Date," that is the

6 invoice date.

7   Q   So in the top left-hand corner of the box,

8 and for this particular document the date reads

9 January 11, 1995; is that right?

10   A   Yes.

11   Q   That's the invoice date to which you're

12 referring?

13   A   Yes.

14   Q   I note that there is also on this report a

15 box that shows order date?

16   A   Yes.

17   Q   Does that order date come from a separate

18 piece of data in the SBT system?

19   A   From the sales order.

20   Q   From the sales order? And is that piece

21 of data part of any of the AR files?

22   A   Yes, in the AR MAST/Header file.

23   Q   And that date you indicated can be changed

24 after the order is input; correct?

25   A   Yes.

1   Q   What is the process for changing -- or

2 what was the process, since they are no longer using

3 the SBT system, what was the process between --

4 again, I'm going to be talking only about Version 6

5 in the period from 1993 to 1998, that Jay-Y was

6 using of SBT -- during that time, what was the

7 process for changing an order date in the Header

8 file after it was initially entered?

9   A   You mean after invoice saved or after

10 order entered?

11   Q   After the order was entered.

12   A   There is a function called "Change Sales

13 Order." So user can use this function to change the

14 order date.

15   Q   What does the SBT system do if somebody

16 enters the Change Sales Order function?

17   A   It will update a related file, like a

18 Header file, Detail file.

19   Q   I think earlier when you talked about

20 changing a quantity via a change function in a file,

21 you said that it entered a counter entry; is that

22 right?

23   MR. WILTON: Objection. Misstates the witness'

24 testimony.

25   ///

1 BY MR. LERNER:

2   Q   What happens when you go to change a

3 quantity that had been input in an order?

4   MR. WILTON: Objection. Vague and ambiguous.

5 BY MR. LERNER:

6   Q   Do you understand what I'm asking? If you

7 put in a sales order, right, prior to --

8   A   Prior to shipment?

9   Q   Prior to shipment, the quantity of that

10 sales order could be changed; correct?

11   A   Yes.

12   Q   How was that quantity -- what was the

13 process for changing that quantity if one wanted to

14 change it?

15   A   In the "change the sales order," they

16 offered the function to change the item quantity.

17 So you just indicated which item, and you type in

18 the quantity you want to change.

19   Q   It just updates the quantity?

20   A   Yes.

21   Q   What about after an invoice is saved if

22 you need to then go back in and change a quantity,

23 could that be done?

24   A   No.

25   Q   I thought you testified earlier that there

1   was a process by which a counter entry could be put

2   into the SBT system.   What did that refer to?

3   A   That's the void invoice.   If you need to

4   void the invoice, the SBT, the program logic, they

5   add a counter or reverse transaction to this

6   invoice.   But also I indicated this invoice is void.

7   Q   So going back to the invoice date, then,

8   you indicated you could enter a "Change Sales Order"

9   function to change the invoice date prior to when

10   the invoice was saved; correct?

11   A   To change the invoice date is "Change

12   Invoice" function, not the "Change Sales Order"

13   function.

14   Q   So an invoice date would be generated by

15   SBT when saving an invoice?

16   A   Yes.

17   Q   After the invoice was saved is there a

18   means of changing the invoice date?

19   A   Yes.

20   Q   What was that method?

21   A   "Change Invoice."

22   Q   And how did one go about changing an

23   invoice date through the "Change Invoice" function?

24   A   You mean how they change?

25   Q   Yes.

1   A   Just enter the invoice number, and the

2 system allow you to override the date.

3   Q   So in that circumstance you actually would

4 overwrite the date, rather than the system putting

5 in a counter entry, as it would when you're voiding

6 the invoice; correct?

7   A   Yes.

8   Q   But that change would be made in the

9 Header file; correct?

10   A   Yes.

11   Q   I think you testified you couldn't change

12 the date in the Detail file; is that right?

13   A   Yes.

14   Q   When a report is printed from SBT in the

15 form of an invoice, like the first page seen in

16 Exhibit 141, where does the SBT get the data for the

17 invoice date that is shown in the top-left corner

18 here? Does it come from the Header file or the

19 Detail file?

20   A   Header file.

21   Q   A little while ago Mr. Wilton showed you

22 an exhibit that had been marked as Exhibit 145,

23 specifically page 2, and I believe you testified

24 that this document represented information that was

25 exported from the SBT file into an Excel file at

1   Jay-Y's request; is that right?

2   A   Yes.

3   Q   And Mr. Wilton took you through the

4   various columns and asked you whether or not any of

5   the Detail file information could be changed; is

6   that right?

7   A   Yes.

8   Q   And he specifically pointed you to the

9   invoice date, among other columns; correct?

10   A   Yes, uh-huh.

11   Q   I believe you testified that the invoice

12   date that is in this exhibit column came from the

13   Detail file; is that right?

14   A   Yes.

15   Q   How do you know that it came from the

16   Detail file, rather than the Header file?

17   A   Because I only retrieved the information

18   from the Detail file. I didn't go to the Header

19   file to get this information because all the

20   information is in the Detail file.

21   Q   But if Jay-Y ran a report today for

22   invoice No. 950041 that is the first page of

23   Exhibit 141, the date that shows in this report on

24   the top-left corner here, that date would be pulled

25   from the Header file; correct?

1   A   Yes.

2   Q   I think you testified earlier that if you

3   voided an invoice using the "Change Invoice"

4   feature, that when you went to pull up an invoice

5   number in the SBT system that had been voided it

6   would show you both the invoice and the voided

7   invoice; is that right?

8   A   Yes.

9   Q   Okay.

10   A   And also it would print out a message,

11   "This is a void invoice."

12   Q   And is it the case that if Jay-Y went to

13   print a report from the SBT system today for an

14   invoice that had been voided, it could enter the

15   invoice number, and what would the SBT system print?

16   A   It would print the positive amount and the

17   negative amount and also a "Void Invoice" message.

18   Q   I believe you testified you used a FoxPro

19   program to export data from the SBT system into

20   other FoxPro files; is that right?

21   A   Yes.

22   Q   And then you exported those FoxPro files

23   to Excel; correct?

24   A   Yes.

25   Q   So in exporting data about, for example,

1   invoice No. 950041, if that invoice had been voided,

2   would the void information also be -- have been

3   exported by your FoxPro program into those smaller

4   Foxpro profiles?

5   A   No, I exclude the void invoice.

6   Q   I believe you testified that at the end of

7   each month there was a closing process by which data

8   files in the SBT system were moved from a Current

9   file into a History file; is that right?

10   A   Yes.

11   Q   And you said that that was done in order

12   to speed up the processing for the Current file?

13   A   Yes.

14   Q   But am I correct you indicated that the

15   data from the Comment file didn't get moved into the

16   History file?

17   A   Yes.

18   Q   That data, instead, was deleted at the end

19   of each month; correct?

20   A   Yes.

21   Q   So if Jay-Y today wanted to print a report

22   for an invoice that had had a comment on it, and

23   that invoice number dated from 1996, when Jay-Y ran

24   the report from the SBT system am I correct that

25   that comment would not print in the report?

1   A   Yes.

2   MR. WILTON: Could you read that back for me?

3   (The record was read.)

4   BY MR. LERNER:

5   Q   I think you testified earlier that you

6   used FoxPro in order to open the SBT database; is

7   that right?

8   A   Yes.

9   Q   You also indicated earlier that the SBT

10   program wouldn't allow you to change certain data in

11   the Detail file; correct?

12   A   Yes.

13   Q   Is it possible to use the FoxPro program

14   to on a data file and change it?

15   A   Yes.

16   Q   I believe you testified earlier as well

17   that you had taken the FoxPro data files that you

18   appended into years, and exported those into Excel

19   at Jay-Y's request; is that right?

20   A   Yes.

21   Q   And once that data was in Excel, could

22   that data be changed?

23   A   Yes.

24   Q   Am I correct that at the end of exporting

25   data into Excel, at Jay-Y's request, you didn't

1   print out any information for Jay-Y?

2   A   No.

3   Q   "No," you didn't print out any

4   information?

5   A   No, I didn't print.

6   Q   Instead you gave them digital Excel files?

7   A   Yes, I saved on the server.

8   Q   Show you what was marked on Exhibit 131,

9   and specifically page 2, and I'll ask you were all

10 those columns of information appear, the 10 columns

11 that appear, were all those columns of information

12 columns that were in the Excel spreadsheet that you

13 provided to Jay-Y related to purchase history of

14 certain items for 1996?

15   A   I didn't export the invoice date and the

16 shipment, but the PO number, vendor number, item

17 number, quantity, received date, FOB cost, landed

18 cost and total cost.

19   Q   Do you know, as you sit here today,

20 whether, other than the last two columns of this

21 spreadsheet, all the data in this exhibit is a true

22 and correct copy of the data in the Excel

23 spreadsheet that you provided to Jay-Y?

24   A   Could you repeat the question?

25   (The record was read.)

1   THE WITNESS: Yes.

2   BY MR. LERNER:

3   Q   How do you know?

4   A   Okay.   If they changed the Excel file it

5   won't match to the printout document because it is

6   the separate files.   So even though they change

7   here, but it won't match (Indicating), and this, the

8   invoice, so . . . .

9   Q   But am I correct that the invoice date in

10   a report that Jay-Y could print today from the SBT

11   system, like what is seen on the first page of

12   Exhibit 14, would reflect the invoice date from the

13   Header file in SBT; correct?

14   A   Yes.

15   Q   And it is possible at this point to go in

16   and change the invoice date and the Header file in

17   SBT; correct?

18   A   After you close -- after the month-end

19   close you won't be able to change the history

20   invoice, only the current month's invoice can be

21   changed.   After you close, nothing can be changed.

22   Q   Have you compared all of the data in

23   Exhibit 131 to the invoices for 1996 that are

24   represented by Exhibits 146 and 147?

25   A   This is the purchase record --

1   Q   I'm looking at the wrong one. The

2 information in Exhibit 132.

3   A   No, because that is their purchase

4 invoice, and this two columns is from this invoice

5 (Indicating).

6   MR. LERNER: I have nothing further.

7   MR. WILTON: I just have a couple of quick

8 follow-up questions.

9

10   REDIRECT EXAMINATION

11 BY MR. WILTON:

12   Q   With regard to the Invoice Header and

13 Invoice Detail files, those are moved to the History

14 file at the end of each month; is that right?

15   A   Yes.

16   Q   And with regard to the portions of the

17 Header file that can be changed, am I correct that

18 they can only be changed before they are moved to

19 the History file?

20   A   Yes.

21   Q   So in terms of the reports that were

22 printed by Jay-Y -- and we're looking at Exhibit 141

23 as an example -- all the information in the Header

24 file was locked into place when it was moved from

25 current to historical sometime in 1995; is that

1   right?

2   A   Yes.

3   Q   When Mr. Lerner asked you about --

4   actually before I move to that, with regard to the

5   purchase order information, is there a Purchase

6   Order Header file in SBT?

7   A   Yes, PO MAST.

8   Q   Let me ask you this: Looking at

9   Exhibit 131, from which file was that information

10   extracted?

11   A   This is the PO RECP Receipt file, but for

12   the Receiving there is no Header file.

13   Q   With regard to the Receiving file after

14   receipt it could not be changed; is that correct?

15   A   Yes.

16   Q   And if someone had taken your spreadsheet

17   and made changes to it, I believe you said something

18   about it would not match.

19   A   Yes. If you change the Excel file, and

20   you print out the receipt report from SBT, then they

21   are not the same. They won't match.

22   Q   So if we look at, for example, a sales

23   history report, which was taken from the Invoice

24   Detail file and export it to an Excel spreadsheet,

25   if one changed the Excel spreadsheet, it wouldn't

1   match the report, such as we see in Exhibit 141?   Is

2   that what you're saying?

3   A   Yes.

4   MR. WILTON: That's all I have.

5   MR. LERNER: I have nothing further.

6   MR. WILTON: Why don't we go off the record for

7   a moment.

8   (A discussion was held off the record.)

9   MR. WILTON: I propose a stipulation in

10   accordance with the Trademark Trial and Appeal Board

11   practice; that the original transcript be prepared,

12   be sent directly to Mr. Ou for his review, and if

13   there are changes that need to be made, he can list

14   them on the errata sheet, included with the

15   transcript, sign the transcript, where indicated,

16   and return it back to the court reporter or TSG in

17   the self-addressed envelope that will be included,

18   and that TSG will take care of getting it to the

19   Trademark Trial and Appeal in accordance with the

20   instructions I will be providing tomorrow.

21   MR. LERNER: So stipulated.

22   MR. WILTON: And that the court reporter be

23   relieved from her statutory duties under the

24   California Code of Civil Procedure.   Since we are in

25   the Trademark Trial and Appeal Board, I don't think

1   they really apply.

2   Work for you?

3   MR. LERNER: Yes.

4   THE REPORTER: Counsel, do you both want the

5   same copy orders as yesterday?

6   MR. WILTON: Yes.

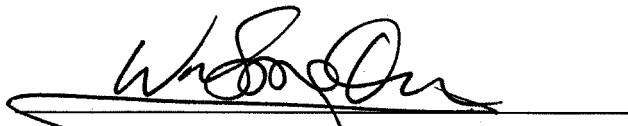7   MR. LERNER: Yes.

8   (The deposition was concluded

9   at 12:57 p.m.)

10   *   *   *

11

12

13   *   *   *

14

15   I, DECLARE UNDER PENALTY OF PERJURY THAT THE

16   FOREGOING IS AN ACCURATE TRANSCRIPTION OF MY

17   TESTIMONY UNDER THE LAWS OF THE STATE OF CALIFORNIA,

18   EXECUTED ON THE _25_ DAY OF _April 2011_

19   _____.

20

21

22   _____

23   MICHAEL OU

24

25

Page 98

1   NAME OF CASE: GADO vs. JAY-Y

2   DATE OF DEPOSITION: 3/24/11

3   NAME OF WITNESS: MICHAEL OU

4   Reason Codes:

5   1.   To clarify the record.

6   2.   To conform to the facts.

7   3.   To correct transcription errors.

8

9   Page ___39___ Line ___21___ Reason ___3___

10   From ___Mentioned___ to ___Maintained___

11   Page_____ Line _____ Reason _____

12   From _____ to _____

13   Page _____ Line _____ Reason _____

14   From _____ to _____

15   Page_____ Line _____ Reason _____

16   From _____ to _____

17   Page _____ Line _____ Reason _____

18   From _____ to _____

19   Page_____ Line _____ Reason _____

20   From _____ to _____

21   Page_____ Line _____ Reason _____

22   From _____ to _____

23

24

25   MICHAEL OU

1   REPORTER'S CERTIFICATE

2   I, LESLIE L. WHITE, CSR NO. 4148,

3   Reporter and Notary Public, certify:

4   That the testimony of TERESA CHEN was

5   taken before me on March 23, 2011 at 9:37 a.m. at 333

6   South Hope Street, Suite 3900, Los Angeles, CA, in the

7   offices of Seyfarth Shaw, at which time the

8   witness was put under oath by me;

9   That the attorneys for the adverse party

10   appeared;

11   That I am not disqualified as specified in Rule 28

12   of the Federal Rules of Civil Procedure;

13   That the testimony of the witness and all

14   objections made at the time of the examination were

15   recorded stenographically by me and were thereafter

16   transcribed;

17   That the foregoing is a true and correct transcript

18   of my shorthand notes so taken;

19   I further certify that I am not a relative or

20   employee of any attorney or of any of the parties nor

21   financially interested in the action.

22   DATED: April 5th, 2011

23   _____

24   LESLIE L. WHITE, CSR NO. 4148

25   NAME OF CASE: GADO vs. JAY-Y